

AMENDED IN ASSEMBLY AUGUST 18, 2004

AMENDED IN ASSEMBLY JULY 27, 2004

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY JUNE 17, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MARCH 31, 2004

SENATE BILL

No. 1316

Introduced by Senator Alpert

(Principal coauthor: Senator Murray)

(Principal coauthor: Assembly Member Steinberg)

(Coauthor: Assembly Member Daucher)

February 17, 2004

An act to amend Sections ~~52052~~, 52054, 56157, 56366, 56366.1, 56366.5, and 56366.9 of, and to add Sections 49085, 56026.3, 56155.7, 56366.10, 56366.11, and 56836.19 to, the Education Code, to amend Section 1501.1 of the Health and Safety Code, and to add Section 16014 to the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1316, as amended, Alpert. Foster children: education.

Existing law requires the California School Information Services program administrator to submit to the State Board of Education a plan to administer, coordinate, and manage the development and implementation of an electronic statewide school information system to address current problems of information exchange. Existing law requires the plan to prescribe the set of statewide data elements and

codes to be implemented by the California School Information Services and requires these data elements and codes to comply with specified privacy provisions.

This bill would require the State Department of Education to ensure that the California School Information Services' system meets the needs of pupils in foster care and includes disaggregated data on pupils in foster care.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop an Academic Performance Index (API), to measure the performance of schools, especially the performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. Existing law requires the pupil data collected for the API to be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group.

~~Existing law establishes the Immediate Intervention/Underperforming Schools Program (I/USP), in which schools that are determined to be low-performing schools based on API results may participate. Schools that participate in the I/USP are required to develop an action plan to improve the academic performance of the schools' pupils. The action plan is required to consider disaggregated data regarding pupil achievement, including information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced-price meals, and pupils in numerically significant subgroups.~~

~~This bill would require pupil data collected for the API and data used for action plans to be disaggregated for foster children.~~

~~Existing law authorizes a school under the jurisdiction of a county board of education or a county Superintendent of schools, a community day school, or an alternative school to receive an API score if the school has 11 or more valid test scores and the school chooses to receive an API score for at least 3 years.~~

~~This bill would also expand this authority for nonpublic, nonsectarian schools.~~

Existing law requires the superintendent, with approval of the State Board of Education, to develop an alternative accountability system for schools with certain API scores and for certain other schools, including community day schools and alternative schools.



This bill would also require the superintendent to develop an alternative accountability system for nonpublic, nonsectarian schools.

Existing law makes each school district, special education local plan area, or county office of education responsible for providing appropriate education to individuals with exceptional needs residing in a licensed children's institution or foster family home located in the geographical area covered by the local plan. Existing law defines a licensed children's institution as a residential facility that is licensed, as specified, to provide nonmedical care to children, including individuals with exceptional needs.

This bill would prohibit a licensed children's institution and a residential care facility from requiring, as a condition of admission or residency, that a child be identified as an individual with exceptional needs.

Existing law makes each school district, special education local plan area, or county office of education responsible for providing appropriate education to individuals with exceptional needs residing in a licensed children's institution or foster family home located in the geographical area covered by the local plan. Existing law requires the school district, special education local plan area, or county office of education, in providing appropriate programs, to first consider services in programs operated by a public education agency. Under existing law, if those programs are not appropriate, special education and related services are required to be provided by contract with a nonpublic, nonsectarian school that is certified by the superintendent.

This bill would require a school district, special education local plan area, or county office of education that has placed an individual with exceptional needs residing in a licensed children's institution or foster family home in a nonpublic, nonsectarian school to conduct an annual evaluation, through the individualized education program process, of whether the placement is the least restrictive environment for the individual. The bill would require the nonpublic, nonsectarian school to report to the school district, special education local plan area, or county office of education that made the placement, on a quarterly or trimester basis, as appropriate, the educational progress demonstrated by the individual with exceptional needs towards the attainment of the goals and objectives specified in the individualized education program of the pupil.

Existing law authorizes school districts, special education local plan areas, and county offices of education to enter into master contracts for



the provision of special education and related services with nonpublic, nonsectarian schools or agencies, as defined, and requires the master contract to be developed in accordance with specified requirements, including, among others, that the master contract include a description of the process being utilized by the school district, county office of education, or special education local plan area to oversee and evaluate placements in nonpublic, nonsectarian schools.

This bill would require the school district, county office of education, or special education local plan area to, at least once every year and, to the extent possible, as part of the individualized education program process, conduct certain evaluations, considerations, and determinations. To the extent this bill would impose additional duties on those local educational agencies, the bill would impose a state-mandated local program.

The bill would, in addition, require the master contract to ~~provide an opportunity for~~ *include a process for* confidential input from the pupil ~~as provided to a representative of the pupil's individualized education program who is from the local educational agency, and include that,~~ with respect to a nonpublic, nonsectarian school that is associated, as specified, with a licensed children's institution, ~~there be~~ a method of evaluating whether the school meets specified guidelines, ~~and with respect to.~~ *The bill would require* a nonpublic, nonsectarian school, ~~the school shall to be part subject to the alternative accountability system of the Public School Performance Accountability Program in the same manner as public schools during the school's testing window, as specified, and would require each pupil placed in the school shall to be tested in accordance with that accountability program, and would require the school shall to prepare a school accountability report card, as provided. The bill would require the test results to be reported by the nonpublic, nonsectarian school to the State Department of Education.~~

Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified by the superintendent as meeting specified standards. Existing law sets forth the certification application process and procedures for the nonpublic, nonsectarian schools or agencies that seek certification and provides that the superintendent may certify a nonpublic, nonsectarian school or agency for a period of not longer than 4 years. Existing law requires that only those nonpublic, nonsectarian schools and agencies that provide special education that utilize staff who hold, or are receiving training under the



supervision of staff who hold, a current valid California credential or license, as specified, may be certified.

This bill would instead provide that the superintendent may certify a nonpublic, nonsectarian school or agency for a period of not longer than ~~±~~ *one* year, and would make related changes. The bill would require a nonpublic, nonsectarian school or agency to make notification of its intent to seek certification. The bill would require that only those nonpublic, nonsectarian schools and agencies that provide special education that utilize staff who hold a certificate, permit, or other document equivalent to that which staff in a public school would be required to hold may be certified.

This bill would require a nonpublic, nonsectarian school that provides special education and related services to an individual with exceptional needs to certify in writing to the superintendent that the school satisfies various requirements relating to credentialed teachers, ~~teacher-to-pupil ratio~~, access to standards-based curriculum and instructional materials, access to specific instruction, and a discipline policy.

Existing law authorizes the superintendent to monitor a nonpublic, nonsectarian school or agency onsite at any time without prior notice when there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child.

This bill would require the superintendent to conduct an investigation onsite at any time without prior notice under those circumstances and monitor the facilities, the educational environment, and the quality of the educational program of an existing certified nonpublic, nonsectarian school or agency on a 3-year cycle, as provided. The bill would also require the superintendent, with respect to a nonpublic, nonsectarian school, to conduct an investigation, which is to include an unannounced onsite visit, if the superintendent receives evidence of a significant deficiency in the quality of educational services provided by the school or noncompliance with other specified requirements. The bill would place additional requirements on a nonpublic, nonsectarian school regarding financial recordkeeping, submitting an annual budget and an annual audit, and documenting services and programs.

Existing law requires the superintendent to charge a nonpublic, nonsectarian school or agency a reasonable fee for certification and requires the nonpublic, nonsectarian school or agency to pay the fee when it applies for certification and when it updates its application for



annual review by the superintendent. Existing law prescribes the base fee for these purposes based on the number of pupils.

This bill would increase the base fees.

Existing law requires a school district, special education local plan area, or county office of education, upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under contract, to either send a warrant within 45 days or notify the school or agency within 10 working days of the reason why payment will not be made.

This bill would provide that any educational funds received by a school district, special education local plan area, or county office of education for the educational costs of individuals with exceptional needs it has placed in nonpublic, nonsectarian schools are to be used solely for those purposes and not for the costs of a residential program.

Existing law prohibits a licensed children's institution at which individuals with exceptional needs reside from requiring as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned or operated by a licensed children's institution. Existing law provides that those services may only be provided if the special education local plan area determines that alternative educational programs are not available.

This bill would prohibit a licensed children's institution at which individuals with exceptional needs reside from requiring as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned, operated by, or associated with, a licensed children's institution. The bill would provide that those services may only be provided if the special education local plan area determines that appropriate public alternative education programs are not available.

Existing law requires the superintendent to apportion moneys to a school district and county superintendent to fund costs associated with placing a pupil in a nonpublic, nonsectarian school or agency for the purpose of providing special education instruction, designated instruction and services, or both.

This bill would require any funds allocated to a school district and county office of education under an unspecified funding formula, to be used exclusively for special education services provided in either public schools or nonpublic, nonsectarian schools for certain pupils who reside



in licensed children's institutions and foster family homes, residential medical facilities, and other similar facilities.

This bill would change all references to a school district, special education local plan area, and county office of education in those provisions to a local educational agency, and would define a local educational agency as a school district, a county office of education, a charter school participating as a member of a special education local plan area, or a special education local plan area, or a special education local plan area.

This bill would require the State Department of Education and the State Department of Social Services to collaborate with specified entities to increase access to federal funds for foster youth services.

This bill would also delete obsolete language and make related changes and various technical, nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and declares
2 the following:
3 (1) According to recent reports by the Little Hoover
4 Commission and the American Institutes for Research, the
5 educational outcomes for our children while in foster care are
6 substandard and, in many cases, California's foster care and
7 educational systems do not provide the educational, life skills, and
8 employment supports and opportunities to ensure that all foster
9 children are able to successfully transition from dependency to
10 self-sufficiency. Foster children that have been identified as

1 requiring special education services, in order to benefit from their
2 education, face extraordinary challenges.

3 (2) Pursuant to two recent reports, which were requested and
4 funded by the Legislature and conducted by the American
5 Institutes for Research, the subset of children in foster care who are
6 also in special education and who have been placed in nonpublic
7 schools do not always receive the same educational opportunities
8 and often do not have access to the same caliber of instruction and
9 instructional materials as individuals with exceptional needs in
10 public schools.

11 (3) In the 2002–03 fiscal year, California spent over \$129
12 million on 4,700 pupils residing in licensed children’s institutions
13 and placed in nonpublic schools to fund the provision of special
14 education services by the nonpublic schools for this population.

15 (4) Approximately one-third of youth emancipating from
16 foster care fail to complete high school and a limited number enter
17 college, although two-thirds express a desire to attend college. Of
18 those who do complete high school, not all of those pupils receive
19 a grade-point average, which is required for admission to a higher
20 education institution.

21 (5) After emancipating from foster care, at least 25 percent
22 experience homelessness, 33 percent receive welfare, 50 percent
23 face unemployment, and approximately 25 percent are arrested
24 and spend time incarcerated. Some of these problems could be
25 diminished by ensuring that youth in foster care, including those
26 who have been identified as individuals with exceptional needs,
27 also receive the services that will assist them to transition to
28 financial independence.

29 (6) Pupils in foster care are frequently moved to a different
30 school, and often experience multiple placements during each
31 school year, slowing their educational progress.

32 (7) Pupils in foster care lack parents to advocate for appropriate
33 educational placement and service, and rely on surrogate parents,
34 responsible adults, or the state to establish and monitor standards
35 for curriculum, instruction, and services.

36 (8) California’s current funding system for individuals with
37 exceptional needs in foster care provides fiscal incentives for
38 placement in a nonpublic school. These incentives may conflict
39 with the goal of giving individuals with exceptional needs access
40 to the least restrictive environment appropriate to their needs.

1 According to the report of the American Institutes for Research,
2 California's current system of funding nonpublic school services
3 for children residing in licensed children's institutions is contrary
4 to federal law.

5 (9) California's funding system also provides insufficient
6 incentives to school districts to control costs when a child residing
7 in a licensed children's institution is placed in a nonpublic school.
8 According to the report of the American Institutes for Research,
9 California now spends between sixty-five thousand dollars
10 (\$65,000) and one hundred fifty thousand dollars (\$150,000) per
11 child annually to house and educate a child in foster care residing
12 in a group home, the higher costs of which are incurred for those
13 placed in a nonpublic school.

14 (10) State standards are substantially less comprehensive for
15 nonpublic schools than the standards and monitoring applied to
16 California's public schools.

17 (11) Accountability for educational outcomes for pupils in
18 foster care is vague and the system for monitoring the educational
19 progress of pupils in foster care placed in nonpublic schools, as
20 well as those in the regular public schools, is inadequate.

21 (12) Foster children and other pupils who have been identified
22 as individuals with exceptional needs have the right to the best
23 educational placement, and in accordance with the federal
24 Individuals with Disabilities Education Act requirement for a free
25 appropriate public education that places pupils in the least
26 restrictive environment appropriate to their needs, whether that is
27 in a public school or a nonpublic school.

28 (b) It is therefore the intent of the Legislature to do the
29 following:

30 (1) Increase state and local accountability for individuals with
31 exceptional needs placed in nonpublic schools, including those
32 residing in foster care.

33 (2) Improve state and local monitoring of nonpublic schools.

34 (3) Ensure that foster children and individuals with exceptional
35 needs who are placed in nonpublic schools are included in the
36 state's testing system in order to monitor and improve their
37 educational outcomes.

38 (4) Include the nonpublic schools and individuals with
39 exceptional needs who reside in licensed children's institutions in

1 the special education Focused Monitoring and Technical
2 Assistance System at the state and local level.

3 (5) Require the State Department of Education to add
4 nonpublic schools to the Public School Accountability Act in
5 order to measure pupil performance at nonpublic schools.

6 (6) Create a funding structure that is neutral in regard to the
7 type of educational placement necessary and best suited for the
8 pupil and that allows public schools to access funding currently
9 available only for nonpublic schools and agencies in serving
10 individuals with exceptional needs in foster care.

11 SEC. 2. Section 49085 is added to the Education Code, to
12 read:

13 49085. The department shall ensure that the California School
14 Information Services system meets the needs of pupils in foster
15 care and includes disaggregated data on pupils in foster care.

16 ~~SEC. 3. Section 52052 of the Education Code is amended to~~
17 ~~read:~~

18 ~~52052. (a) (1) By July 1, 1999, the Superintendent of Public~~
19 ~~Instruction, with approval of the State Board of Education, shall~~
20 ~~develop an Academic Performance Index (API), to measure the~~
21 ~~performance of schools, especially the academic performance of~~
22 ~~pupils, and to demonstrate comparable improvement in academic~~
23 ~~achievement by all numerically significant ethnic and~~
24 ~~socioeconomically disadvantaged subgroups within schools.~~

25 ~~(2) For purposes of this section, a numerically significant~~
26 ~~ethnic or socioeconomically disadvantaged subgroup is a~~
27 ~~subgroup that constitutes at least 15 percent of a school's total~~
28 ~~pupil population and consists of at least 30 pupils. An ethnic or~~
29 ~~socioeconomically disadvantaged subgroup of at least 100 pupils~~
30 ~~constitutes a numerically significant subgroup, even if the~~
31 ~~subgroup does not constitute 15 percent of the total enrollment at~~
32 ~~a school. For schools whose API scores are based on test scores of~~
33 ~~no fewer than 11 and no more than 99 pupils, numerically~~
34 ~~significant subgroups shall be defined by the Superintendent of~~
35 ~~Public Instruction, with approval by the State Board of Education.~~

36 ~~(3) The API shall consist of a variety of indicators currently~~
37 ~~reported to the State Department of Education including, but not~~
38 ~~limited to, the results of the achievement test administered~~
39 ~~pursuant to Section 60640, attendance rates for pupils and~~
40 ~~certificated school personnel for elementary schools, middle~~

1 schools, and secondary schools, and the graduation rates for pupils
2 in secondary schools.

3 (A) ~~The pupil data collected for the API that comes from the~~
4 ~~achievement test administered pursuant to Sections 60640 and~~
5 ~~60644 and the high school exit examination administered pursuant~~
6 ~~to Section 60851, when fully implemented, shall be disaggregated~~
7 ~~by foster children status, special education status, English~~
8 ~~language learners, socioeconomic status, gender and ethnic group.~~
9 ~~Only the test scores of pupils who were counted as part of a school~~
10 ~~district's enrollment in the October California Basic Educational~~
11 ~~Data System's data collection for the current fiscal year and were~~
12 ~~continuously enrolled during that year may be included in the test~~
13 ~~results reported in the API. Results of the achievement test and~~
14 ~~other tests specified in subdivision (b) shall constitute at least 60~~
15 ~~percent of the value of the index.~~

16 (B) ~~Before including high school graduation rates and~~
17 ~~attendance rates in the index, the Superintendent of Public~~
18 ~~Instruction shall determine the extent to which the data are~~
19 ~~currently reported to the state and the accuracy of the data.~~

20 (C) ~~If the Superintendent of Public Instruction determines that~~
21 ~~accurate data for these indicators is not available, the~~
22 ~~Superintendent of Public Instruction shall report to the Governor~~
23 ~~and the Legislature by September 1, 1999, and recommend~~
24 ~~necessary action to implement an accurate reporting system.~~

25 (b) ~~Pupil scores from the following tests, when available and~~
26 ~~when found to be valid and reliable for this purpose, shall be~~
27 ~~incorporated into the API:~~

28 (1) ~~The assessment of the applied academic skills matrix test~~
29 ~~developed pursuant to Section 60604.~~

30 (2) ~~The nationally normed test designated pursuant to Section~~
31 ~~60642.~~

32 (3) ~~The standards-based achievement tests provided for in~~
33 ~~Section 60642.5.~~

34 (4) ~~The high school exit examination.~~

35 (e) ~~Based on the API, the Superintendent of Public Instruction~~
36 ~~shall develop, and the State Board of Education shall adopt,~~
37 ~~expected annual percentage growth targets for all schools based on~~
38 ~~their API baseline score from the previous year. Schools are~~
39 ~~expected to meet these growth targets through effective allocation~~
40 ~~of available resources. For schools below the statewide API~~

1 ~~performance target adopted by the State Board of Education~~
2 ~~pursuant to subdivision (d), the minimum annual percentage~~
3 ~~growth target shall be 5 percent of the difference between a~~
4 ~~school's actual API score and the statewide API performance~~
5 ~~target, or one API point, whichever is greater. Schools at or above~~
6 ~~the statewide API performance target shall have, as their growth~~
7 ~~target, maintenance of their API score above the statewide API~~
8 ~~performance target. However, the State Board of Education may~~
9 ~~set differential growth targets based on grade level of instruction~~
10 ~~and may set higher growth targets for the lowest performing~~
11 ~~schools because they have the greatest room for improvement. To~~
12 ~~meet its growth target, a school shall demonstrate that the annual~~
13 ~~growth in its API is equal to or more than its schoolwide annual~~
14 ~~percentage growth target and that all numerically significant~~
15 ~~ethnic and socioeconomically disadvantaged subgroups, as~~
16 ~~defined in subdivision (a), are making comparable improvement.~~
17 ~~(d) Upon adoption of state performance standards by the State~~
18 ~~Board of Education, the Superintendent of Public Instruction shall~~
19 ~~recommend, and the State Board of Education shall adopt, a~~
20 ~~statewide API performance target that includes consideration of~~
21 ~~performance standards and represents the proficiency level~~
22 ~~required to meet the state performance target. When the API is~~
23 ~~fully developed, schools must, at a minimum, meet their annual~~
24 ~~API growth targets to be eligible for the Governor's Performance~~
25 ~~Award Program as set forth in Section 52057. The State Board of~~
26 ~~Education may establish additional criteria that schools must meet~~
27 ~~to be eligible for the Governor's Performance Award Program.~~
28 ~~(e) Beginning in June 2000, the API shall be used for both of~~
29 ~~the following:~~
30 ~~(1) Measuring the progress of schools selected for participation~~
31 ~~in the Immediate Intervention/Underperforming Schools Program~~
32 ~~pursuant to Section 52053.~~
33 ~~(2) Ranking all public schools in the state for the purpose of the~~
34 ~~High Achieving/Improving Schools Program pursuant to Section~~
35 ~~52056.~~
36 ~~(f) (1) A comprehensive high school, middle school, or~~
37 ~~elementary school with 11 to 99 valid test scores of pupils who~~
38 ~~were enrolled in a school within the same school district in the~~
39 ~~prior fiscal year shall receive an API score with an asterisk that~~

1 indicates less statistical certainty than API scores based on 100 or
2 more test scores.

3 ~~(2) A school under the jurisdiction of a county board of~~
4 ~~education or a county superintendent of schools, a community day~~
5 ~~school, a nonpublic, nonsectarian school as identified in Section~~
6 ~~56366, or an alternative school, including continuation high~~
7 ~~schools and opportunity schools, may receive an API score if the~~
8 ~~school has 11 or more valid test scores and the school chooses to~~
9 ~~receive an API score for at least three years.~~

10 ~~(3) A school that participates in the Immediate~~
11 ~~Intervention/Underperforming Schools Program described in~~
12 ~~Section 52053 shall receive an API score for the duration of its~~
13 ~~participation in that program, unless the Superintendent of Public~~
14 ~~Instruction determines that an API score would be an invalid~~
15 ~~measure of the school's performance for one or more of the~~
16 ~~following reasons:~~

17 ~~(A) Irregularities in testing procedures occurred.~~

18 ~~(B) The data used to calculate the school's API score are not~~
19 ~~representative of the pupil population at the school.~~

20 ~~(C) Significant demographic changes in the school's pupil~~
21 ~~population render year to year comparisons of pupil performance~~
22 ~~invalid.~~

23 ~~(D) The Department of Education discovers or receives~~
24 ~~information indicating that the integrity of the school's API score~~
25 ~~has been compromised.~~

26 ~~(g) Only schools with 100 or more test scores contributing to~~
27 ~~the API may be included in the API rankings.~~

28 ~~(h) By July 1, 2000, the Superintendent of Public Instruction,~~
29 ~~with the approval of the State Board of Education, shall develop~~
30 ~~an alternative accountability system for schools with fewer than~~
31 ~~100 test scores contributing to the schools' API scores, and for~~
32 ~~schools under the jurisdiction of a county board of education or a~~
33 ~~county superintendent of schools, community day schools,~~
34 ~~nonpublic, nonsectarian schools as identified in Section 56366,~~
35 ~~and alternative schools serving high risk pupils, including~~
36 ~~continuation high schools and opportunity schools.~~

37 ~~SEC. 4.~~

38 ~~SEC. 3.~~ Section 52054 of the Education Code is amended to
39 read:

1 52054. (a) ~~Commencing in the 2001–02 fiscal year, by~~ By
2 November 15 of the year that the school is selected to participate,
3 the governing board of a school district having jurisdiction over a
4 school selected for participation in the program shall do one of the
5 following:

6 (1) Contract with an external evaluator from the list of external
7 evaluators and shall appoint a broad-based schoolsite and
8 community team, consisting of a majority of nonschoolsite
9 personnel. In a school that has a limited-English-proficient pupil
10 population that constitutes at least 40 percent of the total pupil
11 population, an external evaluator shall have demonstrated
12 experience in working with a limited-English-proficient pupil
13 population. Not less than 20 percent of the members of the team
14 shall be parents or legal guardians of pupils in the school.

15 (2) Contract with an entity that has proven, successful expertise
16 specific to the challenges inherent in high-priority schools. These
17 entities may include, but are not limited to, the following:

18 (A) Institutions of higher education.

19 (B) County offices of education.

20 (C) School district personnel.

21 (b) The selected external evaluator or entity shall solicit input
22 from the parents and legal guardians of the pupils of the school. At
23 a minimum, the evaluator or entity shall do all of the following:

24 (1) Inform the parents and legal guardians, in writing, that the
25 school has been selected to participate in the Immediate
26 Intervention/Underperforming Schools Program due to its below
27 average performance.

28 (2) Hold a public meeting at the school, in cooperation with the
29 principal, to which all parents and legal guardians of pupils in the
30 school receive a written invitation. The invitation to the meeting
31 may be combined with the written notice required by paragraph
32 (1).

33 (3) Solicit, at the public meeting, the recommendations and
34 opinions of the participating parents and legal guardians of pupils
35 in the school regarding actions that should be taken to improve the
36 performance of the school. These opinions and recommendations
37 shall be considered by the external evaluator or entity and the
38 community team in the development or modification of the action
39 plan pursuant to this section or Section 52054.3.

40 (4) Provide technical assistance to the schoolsite.

(5) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator or entity, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the ~~State Board of Education~~ *state board* pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of

1 foster children, English language learners, pupils with exceptional
2 needs, pupils who qualify for free and reduced price meals, and
3 pupils in numerically significant subgroups.

4 (6) Set short-term academic objectives pursuant to Section
5 52052 for a two-year period that will allow the school to make
6 adequate progress toward the growth targets established for each
7 participating school for pupil achievement as measured by all of
8 the following to the extent that the data is available for the school:

9 (A) The achievement test administered pursuant to Section
10 60640.

11 (B) Graduation rates for grades 7 to 12, inclusive.

12 (C) Attendance rates for pupils and school personnel for
13 elementary, middle, and secondary schools.

14 (D) Any other indicators approved by the ~~State Board of~~
15 ~~Education~~ *state board*.

16 (e) The school action plan shall focus on improving pupil
17 academic performance, improving the involvement of parents and
18 guardians, improving the effective and efficient allocation of
19 resources and management of the school, and identifying and
20 developing solutions that take into account the underlying causes
21 for low performance by pupils.

22 (f) The team, in the development of the action plan, shall
23 consult with the exclusive representatives of employee
24 organizations, where they exist.

25 (g) The school action plan may propose to increase the number
26 of instructional days offered at the schoolsite and also may propose
27 to increase up to a full 12 months the amount of time for which
28 certificated employees are contracted, if all of the following
29 conditions are met:

30 (1) Provisions of the plan proposed pursuant to this subdivision
31 shall not violate current applicable collective bargaining
32 agreements.

33 (2) An agreement is reached with the exclusive representative
34 concerning staffing specifically to accommodate the extended
35 school year or 12-month contract.

36 (h) The team, in the development of the action plan, shall
37 consult with the exclusive representatives of employee
38 organizations, where they exist.

39 (i) Upon its completion, the action plan shall be submitted to
40 the governing board of the school ~~districts~~ *district* for its approval

at a regularly scheduled public meeting. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the ~~State Board of Education~~ *state board*.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the ~~State Board of Education~~ *state board* shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within 30 days of the ~~State Board of Education's state board review~~ *review by the state board*, the Superintendent of Public Instruction shall notify the affected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the ~~State Board of Education~~ *state board* may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the ~~State Board of Education~~ *state board*, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

~~SEC. 5.~~

SEC. 4. Section 56026.3 is added to the Education Code, to read:

56026.3. "Local educational agency" means a school district, a county office of education, a charter school participating as a member of a special education local plan area, or a special education local plan area.

~~SEC. 6.~~

SEC. 5. Section 56155.7 is added to the Education Code, to read:

1 56155.7. A licensed children's institution may not require that
2 a child be identified as an individual with exceptional needs as a
3 condition of admission or residency.

4 ~~SEC. 7.~~

5 SEC. 6. Section 56157 of the Education Code is amended to
6 read:

7 56157. (a) In providing appropriate programs to individuals
8 with exceptional needs residing in licensed children's institutions
9 or foster family homes, the local educational agency shall first
10 consider services in programs operated by public education
11 agencies for individuals with exceptional needs. If those programs
12 are not appropriate, special education and related services shall be
13 provided by contract with a nonpublic, nonsectarian school.

14 (b) If special education and related services are provided by
15 contract with a nonpublic, nonsectarian school, or with a licensed
16 children's institution under this article, the terms of the contract
17 shall be developed in accordance with the provisions of Section
18 56366.

19 (c) If an individual with exceptional needs residing in a
20 licensed children's institution or foster family home is placed in a
21 nonpublic, nonsectarian school, the local educational agency that
22 made the placement shall conduct an annual evaluation, through
23 the individualized education program process, of whether the
24 placement is the least restrictive environment ~~for the individual~~
25 *that is appropriate to meet the pupil's needs.*

26 (d) If an individual with exceptional needs residing in a
27 licensed children's institution or foster family home is placed in a
28 nonpublic, nonsectarian school, the nonpublic, nonsectarian
29 school shall report to the local educational agency that made the
30 placement, on a quarterly or trimester basis, as appropriate, the
31 educational progress demonstrated by the individual with
32 exceptional needs towards the attainment of the goals and
33 objectives specified in the individual's individualized education
34 program.

35 ~~SEC. 8.~~

36 SEC. 7. Section 56366 of the Education Code is amended to
37 read:

38 56366. It is the intent of the Legislature that the role of a
39 nonpublic, nonsectarian school or agency shall be maintained and

continued as an alternative special education service available to a local educational agency and parents.

(a) The master contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The master contract shall specify the general administrative and financial ~~agreements~~ *including teacher to pupil ratios* between the nonpublic, nonsectarian school or agency and the local educational agency to provide the special education and designated instruction and services, as well as transportation specified in the pupil's individualized education program. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) (A) The master contract shall include an individual services agreement for each pupil placed by a local educational agency that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

(B) The master contract shall include a description of the process being utilized by the local educational agency to oversee and evaluate placements in nonpublic, nonsectarian schools, as required by federal law. This description shall include a method for evaluating whether the pupil is making appropriate educational progress. At least once every year, the ~~district, special education local plan area, or county office~~ *local educational agency* shall do all of the following and, to the extent possible, the following shall be conducted as part of the development and provision of an individualized education program:

(i) Evaluate the educational progress of each pupil placed in a nonpublic, nonsectarian school, including all state assessment results pursuant to the requirements of Section 52052.

(ii) Consider whether or not the needs of the pupil continue to be best met at the nonpublic, nonsectarian school and whether changes to the individualized education program of the pupil are necessary, including whether the pupil may be transitioned to a

1 public school setting. This consideration shall be made at the
2 meeting required by subdivision (d) of Section 56343.

3 (iii) Determine the time the pupil will be transferred from the
4 nonpublic, nonsectarian school to a regular class in a public school
5 for any part of the schoolday as required by paragraph (4) of
6 subdivision (b) of Section 56345.

7 ~~(C) The master contract shall provide an opportunity for~~
8 ~~confidential input from the pupil regarding his or her educational~~
9 ~~experience, including developing a confidential survey for the~~
10 ~~pupil or conducting a private interview by at least one of the local~~
11 ~~educational agency representatives of the pupil's individualized~~
12 ~~education program team.~~

13 *(C) The master contract shall include a process for confidential*
14 *input by each pupil to a representative of the pupil's individualized*
15 *education program team who is from the local educational agency.*
16 *That process may include a confidential questionnaire, interview,*
17 *or other similar method of communication.* The requirements of
18 this subparagraph shall be accomplished with existing funds of the
19 local educational agency.

20 (D) In the case of a nonpublic, nonsectarian school that is
21 owned, operated by, or associated with a licensed children's
22 institution, the master contract shall include a method for
23 evaluating whether the nonpublic, nonsectarian school is in
24 compliance with the mandate set forth in Section 56366.9 of the
25 Education Code and subdivision (b) of Section 1501.1 of the
26 Health and Safety Code.

27 (3) Changes in educational instruction, services, or placement
28 provided under contract may only be made on the basis of
29 revisions to the pupil's individualized education program.

30 At any time during the term of the contract or individual services
31 agreement, the parent, the nonpublic, nonsectarian school or
32 agency, or the local educational agency may request a review of the
33 pupil's individualized education program by the individualized
34 education program team. Changes in the administrative or
35 financial agreements of the master contract that do not alter the
36 individual services agreement that outlines each pupil's
37 educational instruction, services, or placement may be made at any
38 time during the term of the contract as mutually agreed by the
39 nonpublic, nonsectarian school or agency and the local
40 educational agency.

(4) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(5) The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the local educational agency agree otherwise in the contract or individual services agreement.

(6) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(7) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services as defined by Section 46307 for purposes of submitting a warrant for tuition to each contracting local educational agency.

(8) (A) A nonpublic, nonsectarian school is subject to the alternative accountability system developed pursuant to Section 52052, in the same manner as public schools and each pupil placed in the nonpublic, nonsectarian school by a local educational agency shall be tested by qualified staff of the nonpublic, nonsectarian school in accordance with that accountability program. The test results shall be reported by the nonpublic, nonsectarian school to the department.

(B) Beginning with the 2006–07 school year testing cycle, each nonpublic, nonsectarian school shall determine its STAR testing period *subject to subdivisions (b) and (c) of Section 60640*. The nonpublic, nonsectarian school shall determine this period based on completion of 85 percent of the instructional year at the school, plus and minus 10 days, resulting in a 21-day period. Each nonpublic, nonsectarian school shall notify the ~~local educational agency~~ *district* of residence of a pupil enrolled in the school of its testing period. Staff at the nonpublic, nonsectarian school who shall administer the assessments shall attend the regular testing training sessions provided by the ~~local educational agency~~ *district*.

1 of residence. If staff from a nonpublic, nonsectarian school have
2 received training from one local educational agency, that training
3 is sufficient for all local educational agencies that send pupils to
4 the nonpublic, nonsectarian school. ~~The local educational agency~~
5 ~~district~~ of residence shall order testing materials for its pupils that
6 have been placed in the nonpublic, nonsectarian school ~~shall~~
7 ~~collaborate~~ school. *The state board shall adopt regulations to*
8 facilitate the distribution and collection of testing materials.

9 (9) ~~With respect to a nonpublic, nonsectarian school, the~~ *The*
10 *nonpublic, nonsectarian* school shall prepare a school
11 accountability report card in accordance with Section 33126.

12 (b) The master contract or individual services agreement shall
13 not include special education transportation provided through the
14 use of services or equipment owned, leased, or contracted by a
15 local educational agency for pupils enrolled in the nonpublic,
16 nonsectarian school or agency unless provided directly or
17 subcontracted by that nonpublic, nonsectarian school or agency.

18 The superintendent shall withhold 20 percent of the amount
19 apportioned to a ~~district or county office~~ *local educational agency*
20 for costs related to the provision of nonpublic, nonsectarian school
21 or agency placements if the superintendent finds that the local
22 educational agency is in noncompliance with this subdivision.
23 This amount shall be withheld from the apportionments in the
24 fiscal year following the superintendent's finding of
25 noncompliance. The superintendent shall take other appropriate
26 actions to prevent noncompliant practices from occurring and
27 report to the Legislature on those actions.

28 (c) (1) If the pupil is enrolled in the nonpublic, nonsectarian
29 school or agency with the approval of the local educational agency
30 prior to agreement to a contract or individual services agreement,
31 the local educational agency shall issue a warrant, upon
32 submission of an attendance report and claim, for an amount equal
33 to the number of creditable days of attendance at the per diem
34 tuition rate agreed upon prior to the enrollment of the pupil. This
35 provision shall be allowed for 90 days during which time the
36 contract shall be consummated.

37 (2) If after 60 days the master contract or individual services
38 agreement has not been finalized as prescribed in paragraph (1) of
39 subdivision (a), either party may appeal to the county
40 superintendent of schools, if the county superintendent is not

participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(d) A master contract for special education and related services provided by a nonpublic, nonsectarian school or agency may not be authorized under this part, unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school or agency receiving approval to educate pupils under this part for a period no longer than ~~two years~~ *18 months* from the date of the *initial* approval.

(e) By September 30, 1998, the procedures, methods, and regulations for the purposes of contracting for nonpublic, nonsectarian school and agency services pursuant to this section and for reimbursement pursuant to Sections 56836.16 and 56836.20 shall be developed by the superintendent in consultation with statewide organizations representing providers of special education and designated instruction and services. The regulations shall be established by rules and regulations issued by the board.

~~SEC. 9.~~

SEC. 8. Section 56366.1 of the Education Code is amended to read:

56366.1. (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the superintendent on forms provided by the department and include the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member

1 rendering special education or designated instruction and services
2 to do so, and copies of their credentials, licenses, or certificates of
3 registration with the appropriate state or national organization that
4 has established standards for the service rendered.

5 (4) An annual operating budget.

6 (5) Affidavits and assurances necessary to comply with all
7 applicable federal, state, and local laws and regulations which
8 include criminal record summaries required of all nonpublic
9 school or agency personnel having contact with minor children
10 under Section 44237.

11 (b) (1) The applicant shall provide the special education local
12 plan area in which the applicant is located with the written
13 notification of its intent to seek certification or renewal of its
14 certification. The applicant shall submit on a form, developed by
15 the department, a signed verification by local educational agency
16 representatives that they have been notified of the intent to certify
17 or renew certification. The verification shall include a statement
18 that ~~special education local plan area~~ *local educational agency*
19 representatives in which the applicant is located have had the
20 opportunity to review the application at least 60 calendar days
21 prior to submission of an initial application to the superintendent,
22 or at least 30 calendar days prior to submission of a renewal
23 application to the superintendent. The signed verification shall
24 provide assurances that local educational agency representatives
25 have had the opportunity to provide input on all required
26 components of the application.

27 (2) If the applicant has not received a response from the local
28 educational agency 30 days from the date of the return receipt, the
29 applicant may file the application with the superintendent. A copy
30 of the return receipt shall be included with the application as
31 verification of notification efforts to the local educational agency.

32 (3) *The department shall mail renewal application materials to*
33 *certified nonpublic, nonsectarian schools and agencies at least*
34 *120 days prior to the date their current certification expires.*

35 (c) If the applicant operates a facility or program on more than
36 one site, each site shall be certified.

37 (d) If the applicant is part of a larger program or facility on the
38 same site, the superintendent shall consider the effect of the total
39 program on the applicant. A copy of the policies and standards for

1 the nonpublic, nonsectarian school or agency and the larger
2 program shall be available to the superintendent.

3 (e) Prior to certification, the superintendent shall conduct an
4 onsite review of the facility and program for which the applicant
5 seeks certification. The superintendent may be assisted by
6 representatives of the special education local plan area in which the
7 applicant is located and a nonpublic, nonsectarian school or
8 agency representative who does not have a conflict of interest with
9 the applicant. The superintendent shall conduct an additional
10 onsite review of the facility and program within ~~two~~ *three* years of
11 the certification effective date, unless the superintendent
12 conditionally certifies the school or agency or unless the
13 superintendent receives a formal complaint against the school or
14 agency. In the latter two cases, the superintendent shall conduct an
15 onsite review at least annually.

16 (f) The superintendent shall make a determination on an
17 application within 120 days of receipt of the application and shall
18 certify, conditionally certify, or deny certification to the applicant.
19 If the superintendent fails to take one of these actions within 120
20 days, the applicant is automatically granted conditional
21 certification for a period terminating on August 31, of the current
22 school year. If certification is denied, the superintendent shall
23 provide reasons for the denial. The superintendent may certify the
24 school or agency for a period of not longer than one year.

25 (g) Certification becomes effective on the date the nonpublic,
26 nonsectarian school or agency meets all the application
27 requirements and is approved by the superintendent. Certification
28 may be retroactive if the school or agency met all the requirements
29 of this section on the date the retroactive certification is effective.
30 Certification expires on December 31 of the terminating year.

31 (h) The superintendent shall annually review the certification
32 of each nonpublic, nonsectarian school and agency. For this
33 purpose, a certified school or agency shall annually update its
34 application between August 1 and October 31, unless the board
35 grants a waiver pursuant to Section 56101. The superintendent
36 may conduct an onsite review as part of the annual review.

37 (i) (1) The superintendent shall conduct an investigation of a
38 nonpublic, nonsectarian school or agency onsite at any time
39 without prior notice if there is substantial reason to believe that
40 there is an immediate danger to the health, safety, or welfare of a

1 child. The superintendent shall document the concern and submit
2 it to the nonpublic, nonsectarian school or agency at the time of the
3 onsite investigation. The superintendent shall require a written
4 response to any noncompliance or deficiency found.

5 (2) With respect to a nonpublic, nonsectarian school, the
6 superintendent shall conduct an investigation, which may include
7 an unannounced onsite visit, if the superintendent receives
8 evidence of a significant deficiency in the quality of educational
9 services provided or a violation of Section 56366.9 or
10 noncompliance with the policies expressed by subdivision (b) of
11 Section 1501 of the Health and Safety Code by the nonpublic,
12 nonsectarian school. The superintendent shall document the
13 complaint and the results of the investigation and shall provide
14 copies of the documentation to the complainant, the nonpublic,
15 nonsectarian school, and the contracting local educational agency.

16 (3) Violations or noncompliance documented pursuant to
17 paragraph (1) or (2) shall be reflected in the status of the
18 certification of the school, at the discretion of the superintendent,
19 pending an approved plan of correction by the nonpublic,
20 nonsectarian school. The department shall retain for a period of 10
21 years, all violations pertaining to certification of the ~~nonsectarian,~~
22 ~~nonpublic~~ *nonpublic, nonsectarian* school or agency.

23 (j) The superintendent shall monitor the facilities, the
24 educational environment, and the quality of the educational
25 program, including the teaching staff, the credentials authorizing
26 service, the standards-based core curriculum being employed, and
27 the standard focused instructional materials used, of an existing
28 certified nonpublic, nonsectarian school or agency on a three-year
29 cycle, as follows:

30 (1) The nonpublic, nonsectarian school or agency shall
31 complete a self-review in year one.

32 (2) The superintendent shall conduct an onsite review of the
33 nonpublic, nonsectarian school or agency in year two.

34 (3) The superintendent shall conduct a followup visit to the
35 nonpublic, nonsectarian school or agency in year three.

36 (k) (1) Notwithstanding any other provision of law, the
37 superintendent may not certify a nonpublic, nonsectarian school
38 or agency that proposes to initiate or expand services to pupils
39 currently educated in the immediate prior fiscal year in a juvenile
40 court program, community school pursuant to Section 56150, or

1 other nonspecial education program, including independent study
2 or adult school, or both, unless the nonpublic, nonsectarian school
3 or agency notifies the county superintendent of schools and the
4 special education local plan area in which the proposed new or
5 expanded nonpublic, nonsectarian school or agency is located of
6 its intent to seek certification.

7 (2) The notification shall occur no later than ~~the~~ December 1
8 prior to the new fiscal year in which the proposed or expanding
9 school or agency intends to initiate services. The notice shall
10 include the following:

11 (A) The specific date upon which the proposed nonpublic,
12 nonsectarian school or agency is to be established.

13 (B) The location of the proposed program or facility.

14 (C) The number of pupils proposed for services, the number of
15 pupils currently served in the juvenile court, community school,
16 or other nonspecial education program, the current school services
17 including special education and related services provided for these
18 pupils, and the specific program of special education and related
19 services to be provided under the proposed program.

20 (D) The reason for the proposed change in services.

21 (E) The number of staff that will provide special education and
22 designated instruction and services and hold a current valid
23 California credential or license in the service rendered or
24 certificate of registration to provide occupational therapy.

25 (3) In addition to the requirements in subdivisions (a) through
26 ~~(l)~~, (f), inclusive, the superintendent shall require and consider the
27 following in determining whether to certify a nonpublic,
28 nonsectarian school or agency as described in this subdivision:

29 (A) A complete statement of the information required as part
30 of the notice under paragraph (1).

31 (B) Documentation of the steps taken in preparation for the
32 conversion to a nonpublic, nonsectarian school or agency,
33 including information related to changes in the population to be
34 served and the services to be provided pursuant to each pupil's
35 individualized education program.

36 (4) Notwithstanding any other provision of law, the
37 certification becomes effective no earlier than July 1, if the school
38 or agency provided the notification required pursuant to paragraph
39 (1).

40 ~~(m)~~

(l) (1) Commencing July 1, 2006, notwithstanding any other provision of law, the superintendent may not certify or renew the certification of a nonpublic, nonsectarian school or agency, unless all of the following conditions are met:

(A) The entity operating the nonpublic, nonsectarian school or agency maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school or agency identified separately from any licensed children's institution that it operates.

(B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.

(C) The entity submits an entity-wide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys *received and expended* on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, the term licensed children's institution has the same meaning as it is defined by Section 56155.5.

~~(n)~~

(m) The school or agency shall be charged a reasonable fee for certification. The superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

1	(1) 1– 5 pupils	\$ 300
2	(2) 6–10 pupils	500
3	(3) 11–24 pupils	1,000
4	(4) 25–75 pupils	1,500
5	(5) 76 pupils and over	2,000

6

7 The school or agency shall pay this fee when it applies for
8 certification and when it updates its application for annual review
9 by the superintendent. The superintendent shall use these fees to
10 conduct onsite reviews, which may include field experts. No fee
11 shall be refunded if the application is withdrawn or is denied by the
12 superintendent.

13 ~~(e)~~

14 (n) (1) Notwithstanding any other provision of law, only those
15 nonpublic, nonsectarian schools and agencies that provide special
16 education and designated instruction and services utilizing staff
17 who hold a certificate, permit, or other document equivalent to that
18 which staff in a public school are required to hold in the service
19 rendered are eligible to receive certification. Only those
20 nonpublic, nonsectarian schools or agencies located outside of
21 California that employ staff who hold a current valid credential or
22 license to render special education and related services as required
23 by that state shall be eligible to be certified.

24 (2) The ~~State Board of Education~~ *state board* shall develop
25 regulations to implement this subdivision.

26 ~~(f)~~

27 (o) In addition to meeting the standards adopted by the board,
28 a nonpublic, nonsectarian school or agency shall provide written
29 assurances that it meets all applicable standards relating to fire,
30 health, sanitation, and building safety.

31 ~~SEC. 10.~~

32 SEC. 9. Section 56366.5 of the Education Code is amended to
33 read:

34 56366.5. (a) Upon receipt of a request from a nonpublic,
35 nonsectarian school for payment for services provided under a
36 contract entered into pursuant to Sections 56365 and 56366, the
37 ~~district, special education local plan area, or county office~~ *local*
38 *educational agency* shall either (1) send a warrant for the amount
39 requested within 45 days, or (2) notify the nonpublic, nonsectarian



1 school within 10 working days of any reason why the requested
2 payment shall not be paid.

3 (b) If the ~~district, special education local plan area, or county~~
4 ~~office~~ *local educational agency* fails to comply with subdivision
5 (a), the nonpublic, nonsectarian school may require the ~~district,~~
6 ~~special education local plan area, or county office~~ *local*
7 *educational agency* to pay an additional amount of 1½ percent of
8 the unpaid balance per month until full payment is made. The
9 ~~district, special education local plan area, or county office~~ *local*
10 *educational agency* may not claim reimbursement from the state
11 for the additional amount pursuant to any provision of law,
12 including any provision contained in Chapter 3 (commencing with
13 Section 2201) of Part 4 of Division 1 of the Revenue and Taxation
14 Code.

15 (c) Any educational funds received ~~by a district, special~~
16 ~~education local plan area, or county office~~ *from a local educational*
17 *agency* for the educational costs of individuals with exceptional
18 needs it has placed in nonpublic, nonsectarian schools shall be used
19 solely for those purposes and not for the costs of a residential
20 program.

21 ~~SEC. 11.~~

22 *SEC. 10.* Section 56366.9 of the Education Code is amended
23 to read:

24 56366.9. A licensed children's institution at which
25 individuals with exceptional needs reside shall not require as a
26 condition of residential placement that it provide the appropriate
27 educational programs to those individuals through a nonpublic,
28 nonsectarian school or agency owned, operated by, or associated
29 with, a licensed children's institution. Those services may only be
30 provided if the special education local plan area determines that
31 appropriate public alternative educational programs are not
32 available.

33 ~~SEC. 12.~~

34 *SEC. 11.* Section 56366.10 is added to the Education Code, to
35 read:

36 56366.10. In addition to the certification requirements set
37 forth in Sections 56366 and 56366.1, a nonpublic, nonsectarian
38 school that provides special education and related services to an
39 individual with exceptional needs shall certify in writing to the
40 superintendent that it meets all of the following requirements:



(a) Commencing with the 2009–10 school year, or commencing July 1, 2009, whichever is later, each pupil shall be taught by a teacher with a valid special education *or other* teaching credential issued by the Commission on Teacher Credentialing authorizing service for the disabling conditions of individuals with exceptional needs enrolled in the nonpublic, nonsectarian school.

~~(b) The teacher to pupil ratio shall not exceed 12 pupils per teacher, except that the number of pupils may be temporarily increased to 14 pupils if necessary to provide special education and related services to individuals with exceptional needs and with approval by an authorized local educational agency representative.~~

(b) It will not accept a pupil with exceptional needs if it cannot provide the services outlined in the pupil's individualized education plan.

(c) Pupils have access to standards-based, core curriculum and the same instructional materials used by the local educational agency in which the nonpublic, nonsectarian school is located.

(d) Pupils have access to college preparation courses.

~~(e) Pupils have access to a variety of extracurricular activities, including art, sports, music, and academic clubs.~~

~~(f) Pupils have access to career preparation and vocational training, consistent with transition plans pursuant to state and federal law.~~

~~(g) Pupils have access to supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling.~~

~~(h)~~

(e) The teachers and staff provide academic instruction and support services to pupils with the goal of integrating pupils into public schools.

~~(i)~~

(f) The school has and abides by a written policy for pupil discipline which is consistent with state and federal law and regulations.

(g) To the extent the following services and assistance are available in the school district in which the nonpublic, nonsectarian school is located, pupils have access to the following:

1 (1) *A variety of extracurricular activities, such as art, sports,*
2 *music, and academic clubs.*

3 (2) *Career preparation and vocational training consistent with*
4 *transition plans pursuant to state and federal law.*

5 (3) *Supplemental assistance, including individual academic*
6 *tutoring, psychological counseling, and career and college*
7 *counseling.*

8 SEC. 12. Section 56366.11 is added to the Education Code, to
9 read:

10 56366.11. (a) The department shall implement a program to
11 integrate individuals with exceptional needs placed in nonpublic,
12 nonsectarian schools into public schools. Under the program, a
13 pupil placed in a nonpublic, nonsectarian school and each
14 individual who has the right to make educational decisions for the
15 pupil shall be informed of all their rights relating to the educational
16 placement of the pupil. Existing dispute resolution procedures
17 involving public school enrollment or attendance shall be
18 explained to a pupil placed in a nonpublic, nonsectarian school in
19 an age and developmentally appropriate manner. The Foster Child
20 Ombudsman shall disseminate the information on education rights
21 to every foster child residing in a licensed children's institution or
22 foster family home.

23 (b) *By March 15, 2005, the department shall submit to the*
24 *Legislature a report on the academic progress of pupils attending*
25 *nonpublic, nonsectarian, schools serving individuals with*
26 *exceptional needs. Using the 2003 and 2004 results of the*
27 *Standardized Testing and Reporting (STAR) program and the*
28 *California Alternative Performance Assessment, the report shall*
29 *summarize by district the achievement of all pupils attending a*
30 *nonpublic, nonsectarian school. The report shall also separately*
31 *report the change in scores for pupils attending the school for two*
32 *consecutive years. The department shall ensure that the report*
33 *does not violate the confidentiality of individual pupil scores. In*
34 *addition, the report shall include an academic performance index*
35 *score for pupils attending nonpublic, nonsectarian schools for*
36 *each district using the same procedures as under Section 52052.*

37 SEC. 13. Section 56836.19 is added to the Education Code,
38 to read:

39 56836.19. Any funds allocated to a district and county office
40 under the funding formula defined in ~~Section~~ Sections

1 56156.6, 56836.16, 56836.165, 56836.17, and 56836.173 shall be
2 used exclusively for special education services provided in either
3 public schools or nonpublic, nonsectarian schools for pupils
4 meeting the requirements of Section 56155 who reside in licensed
5 children's institutions and foster family homes as defined in
6 Section 56155.5, residential medical facilities, and other similar
7 facilities.

8 SEC. 14. Section 1501.1 of the Health and Safety Code is
9 amended to read:

10 1501.1. (a) It is the policy of the state to facilitate the proper
11 placement of every child in residential care facilities where the
12 placement is in the best interests of the child. A county may require
13 placement or licensing agencies, or both placement and licensing
14 agencies, to actively seek out-of-home care facilities capable of
15 meeting the varied needs of the child. Therefore, in placing
16 children in out-of-home care, particular attention should be given
17 to the individual child's needs, the ability of the facility to meet
18 those needs, the needs of other children in the facility, the licensing
19 requirements of the facility as determined by the licensing agency,
20 and the impact of the placement on the family reunification plan.

21 (b) Pursuant to this section, children with varying designations
22 and varying needs, except as provided by statute, may be placed
23 in the same facility provided the facility is licensed, complies with
24 all licensing requirements relevant to the protection of the child,
25 and has a special permit, if necessary, to meet the needs of each
26 child so placed. A facility may not require, as a condition of
27 placement, that a child be identified as an individual with
28 exceptional needs as defined by Section 56026 of the Education
29 Code.

30 (c) Neither the requirement for any license nor any regulation
31 shall restrict the implementation of the provisions of this section.
32 Implementation of this section does not obviate the requirement
33 for a facility to be licensed by the department.

34 (d) Pursuant to this section, children with varying designations
35 and varying needs, except as provided by statute, may be placed
36 in the same licensed foster family home or with a foster family
37 agency for subsequent placement in a certified family home.
38 Children with developmental disabilities, mental disorders, or
39 physical disabilities may be placed in licensed foster family homes
40 or certified family homes, provided that an appraisal of the child's

1 needs and the ability of the receiving home to meet those needs is
2 made jointly by the placement agency and the licensee in the case
3 of licensed foster family homes or the placement agency and the
4 foster family agency in the case of certified family homes, and is
5 followed by written confirmation prior to placement. The
6 appraisal shall confirm that the placement poses no threat to any
7 child in the home.

8 For purposes of this chapter, the placing of children by foster
9 family agencies shall be referred to as “subsequent placement” to
10 distinguish the activity from the placing by public agencies.

11 SEC. 15. Section 16014 is added to the Welfare and
12 Institutions Code, to read:

13 ~~(a)~~

14 16014. (a) It is the intent of the Legislature to maximize
15 federal funding for foster youth services provided by local
16 ~~education~~ educational agencies.

17 (b) The State Department of Education and the State
18 Department of Social Services shall collaborate with the County
19 Welfare Directors Association and Association, representatives
20 from local educational agencies, and representatives of private,
21 nonprofit foster care providers to establish roles and
22 responsibilities, claiming requirements, and sharing of eligibility
23 information eligible for funding under Part E (commencing with
24 Section 470) of Title IV of the federal Social Security Act (42
25 U.S.C. 301, Sec. 301 et seq.). These state agencies shall also assist
26 counties and local educational agencies in drafting memorandums
27 of understanding between agencies to access to that funding for
28 case management activities associated with providing foster youth
29 services for eligible children. That federal funding shall be an
30 augmentation to the current program and shall not supplant
31 existing state general funds allocated to this program.

32 (c) School districts shall be responsible for 100 percent of the
33 nonfederal share of payments received under that act.

34 SEC. 16. Public schools are encouraged to apply for all
35 available federal-state, state, and local supplemental sources of
36 funding to accomplish the goals set forth in this act, including
37 funding available for neglected or delinquent pupils who are at risk
38 of dropping out of school, as funded by Section 6421 of Title 20
39 of the United States Code, funding pursuant to the federal Stewart
40 B. McKinney Homeless Assistance Act (42 U.S.C. Sec. 11301 et

1 seq.), *Title XIX of the Federal Social Security Act* (42 U.S.C. Sec.
2 301 *et seq.*) and the federal Individuals with Disabilities Education
3 Act (20 U.S.C. Sec. 1400 *et seq.*).

4 ~~SEC. 17. For all nonpublic agency services provided to foster~~
5 ~~youth who are individuals with exceptional needs, the nonpublic~~
6 ~~agency shall first submit a claim for federal reimbursement of~~
7 ~~activities eligible for funding under Title XIX of the federal Social~~
8 ~~Security Act (42 U.S.C. Sec. 301 *et seq.*) before submitting those~~
9 ~~claims to a local educational agency for reimbursement of any~~
10 ~~noneligible services. The State Department of Education shall~~
11 ~~work with the State Department of Health Services to issue~~
12 ~~instructions on the claiming process, to the extent necessary.~~

13 ~~SEC. 18.~~

14 *SEC. 17.* Notwithstanding Section 17610 of the Government
15 Code, if the Commission on State Mandates determines that this
16 act contains costs mandated by the state, reimbursement to local
17 agencies and school districts for those costs shall be made pursuant
18 to Part 7 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the claim for
20 reimbursement does not exceed one million dollars (\$1,000,000),
21 reimbursement shall be made from the State Mandates Claims
22 Fund.

